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Las Vegas, Nevada 89128-9020
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8 Attorneys for Defendants

10 **UNITED STATES DISTRICT COURT**
11 **DISTRICT OF NEVADA, SOUTHERN DIVISION**

13 GIANLUCA CAIONE and IOANA CAIONE,

14 Plaintiffs,

15 v.

16 MICHAEL J. COYNE, JR., individually;
INGRAM MICRO SERVICES INC., a
17 Foreign Corporation; INGRAM MICRO INC.,
a Foreign Corporation; RUTLEDGE
18 COMPANY INC. dba THE PHOENIX
GROUP, a Foreign Corporation; DOES I
19 through X, inclusive; and ROE
CORPROATIONS I through X, inclusive,

20 Defendants.

Case No. _____

Eighth Judicial District Court of the State of
Nevada in and for the County of Clark

State Court Case No.: A-19-796407-C
State Court Dept. No.: 31

**DEFENDANTS' PETITION FOR
REMOVAL**

23 **TO: THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEVADA**

24 PLEASE TAKE NOTICE that pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, Defendants
25 MICHAEL J. COYNE, JR., INGRAM MICRO SERVICES LLC (erroneously named as INGRAM
26 MICRO SERVICES INC.), INGRAM MICRO INC., and RUTLEDGE COMPANY INC. dba THE
27 PHOENIX GROUP (hereinafter collectively referred to as "Defendants"), through their attorneys of
28 record, WOOD SMITH HENNING & BERMAN, LLP, hereby remove the above-captioned action

1 from the Eighth Judicial District Court of Clark County, Nevada to the United States District Court for
 2 the District of Nevada. Removal is warranted under 28 U.S.C. §§ 1332 (a)(1) because this is a civil
 3 action between citizens of different states and the amount in controversy exceeds the sum or value of
 4 \$75,000.00 exclusive of interest and costs.

5 BACKGROUND

6 1. On June 10, 2019, Plaintiffs GIANLUCA CAIONE and IOANA CAIONE (hereinafter
 7 collectively referred to as "Plaintiffs"), filed an action entitled Gianluca Caione and Ioana Caione v.
 8 Michael J. Coyne, Jr., Ingram Micro Services LLC (erroneously named as Ingram Micro Services
 9 Inc.), Ingram Micro Inc., and Rutledge Company Inc. dba The Phoenix Group, in the Eighth Judicial
 10 District Court of Clark County, Nevada, case number A-19-796407-C, assigned to Department XXXI.
 11 Plaintiff served a Summons and Complaint on Defendant Ingram Micro Services LLC on June 12,
 12 2019, on Defendant Ingram Micro Inc. on June 13, 2019, and on Defendant Michael J. Coyne, Jr. on
 13 July 6, 2019. A true and correct copy of the two of the Summons and the Complaint in this action are
 14 attached hereto, as **Exhibit "A."** As of the date of this filing, the Summons and Affidavit of Service
 15 upon Michael J. Coyne, Jr. were not yet available.

16 2. No proceedings have been had in the state court action.

17 3. As more fully set forth below, this case is properly removed to this Court pursuant to
 18 28 U.S.C. §§ 1332 (a)(1) because this is a civil action between the citizens of different states and the
 19 amount in controversy exceeds the sum or value of \$75,000.00 exclusive of interest and costs.

20 I. DEFENDANTS HAVE SATISFIED THE PROCEDURAL REQUIREMENTS FOR 21 REMOVAL

22 4. Defendants Michael J. Coyne, Jr., Ingram Micro Services LLC, and Ingram Micro Inc.
 23 were served with a copy of the Summons and Complaint on June 12, June 13, and July 6, 2019,
 24 respectively. In accordance with 28 U.S.C. § 1446(b) (1), Defendants are well within the 30 days after
 25 the service of summons to remove this matter to this Court.

26 5. The Eighth Judicial District Court of Clark County, Nevada is located within the
 27 United States District Court for the District of Nevada. Thus, venue is proper in this Court and under
 28 28 U.S.C. § 108 because it is the "district and division embracing the place where such action is

1 pending." *See* U.S.C. § 1441(a).

2 6. No previous request has been made for the relief requested herein.

3 7. Pursuant to 28 U.S.C. § 1446(a), a copy of all process, pleadings, and orders that have
4 been served upon Defendants, which papers include the Summons and Complaint, are attached hereto,
5 as **Exhibit "A"** with the exception of the Affidavit of Service upon Michael J. Coyne, Jr. were not yet
6 available. Pursuant to 28 U.S.C. § 1446(d), a copy of this Petition For Removal is being served on
7 counsel for Plaintiffs and a copy is being filed with the Clerk of the Eighth Judicial District Court of
8 Clark County, Nevada.

9 **II. REMOVAL IS PROPER BECAUSE THIS COURT HAS SUBJECT MATTER**
10 **JURISDICTION UNDER 28 U.S.C. §§ 1332 AND 1441**

11 8. This Court has subject matter jurisdiction under 28 U.S.C. § 1332(a)(1) because this is
12 a civil action between Plaintiffs Gianluca Caione and Ioana Caione, citizens of Nevada and residents
13 of Clark County, and the following foreign Defendants:

14 a. Ingram Micro Inc., a corporation foreign to the State of Nevada, being duly
15 organized and incorporated under the laws of the State of Delaware, whose principal State of business
16 is California;

17 b. Ingram Micro Services LLC, a wholly owned subsidiary of Ingram Micro Inc.
18 and a limited liability company foreign to the State of Nevada, being duly organized and incorporated
19 under the laws of the State of Delaware, whose principal State of business is California. Further, it is
20 100% owned by INGRAM MICRO INC. which is a Delaware corporation;

21 c. Rutledge Company Inc. dba The Phoenix Group, a wholly owned subsidiary of
22 Ingram Micro Inc. and a corporation foreign to the State of Nevada, being duly organized and
23 incorporated under the laws of the State of Missouri, whose principal State of business is California.
24 Further, it is 100% owned by INGRAM MICRO INC. which is a Delaware corporation.

25 d. Michael J. Coyne, Jr. (hereinafter referred to as "Defendant Coyne"), an
26 individual who is a citizen of Missouri and resident of St. Charles County.

27 Additionally, the amount in controversy exceeds the sum or value of \$75,000.000, exclusive of
28 interests and costs.

A. There is Complete Diversity Between Plaintiff and Defendant

9. According to 28 U.S.C. § 1332 (a), diversity of citizenship exists when there are citizens of different states.

10. Upon information and belief, and as alleged in the Complaint, Plaintiffs Gianluca Caione and Ioana Caione are citizens of Nevada and residents of Clark County.

11. Defendant Coyne, as indicated in Plaintiff's Complaint, is a resident of Missouri.

12. Defendant Ingram Micro Inc., as indicated in Plaintiffs' Complaint, is a corporation foreign to the State of Nevada, being duly organized and incorporated under the laws of the State of Delaware.

13. Defendant Ingram Micro Services LLC, as indicated in the Complaint, is a wholly owned subsidiary of Ingram Micro Inc., a corporation foreign to the State of Nevada. Despite the allegation that Ingram Micro Services LLC operated a facility in Nevada, Ingram Micro Services LLC is duly organized and incorporated under the laws of the State of Delaware, and its principal State of business is California. Further, it is 100% owned by INGRAM MICRO INC. which is a Delaware corporation.

14. Defendant Rutledge Company Inc. dba The Phoenix Group, as indicated in Plaintiffs' Complaint, is a corporation foreign to the State of Nevada, being duly organized and incorporated under the laws of the State of Missouri. Further, it is 100% owned by INGRAM MICRO INC. which is a Delaware corporation.

B. The Amount In Controversy Requirement Is Satisfied.

15. According to 28 U.S.C. § 1332 (a), in addition to diversity of citizenship, the amount in controversy must exceed \$75,000.

16. A defendant's duty is not to prove by a preponderance of evidence that the plaintiff is likely to recover an amount in excess of the threshold. Rather, the jurisdictional minimum in diversity cases is determined by the amount at stake to the other party. *See Hamrick v. REO Properties Corp.*, 2010 WL 2836614 (Nev. 2010) (citing to *Sanchez v. Monumental Life Ins. Co.*, 102 F.3d 398 (9th Cir. 1996)). The amount in controversy is satisfied when the plaintiff's potential gain exceeds the

1 jurisdictional limit. *Id.*

2 17. Upon information and belief, as alleged in Plaintiffs' Complaint, on or about October
3 11, 2018, Defendant Coyne was operating a vehicle on Lake Las Vegas Drive when he impacted
4 Plaintiff Gianluca Caione's vehicle.

5 18. Upon information and belief, as alleged in Plaintiffs' Complaint, on or about October
6 11, 2018, Defendant Coyne was operating said vehicle with the course and scope of his employment.

7 19. Upon information and belief, as alleged in Plaintiffs' Complaint, on or about October
8 11, 2018, Defendant Coyne was acting within the course and scope of his employment with
9 Defendants Ingram Micro Services LLC, Ingram Micro Inc., and/or Rutledge Company Inc. dba The
10 Phoenix Group.

11 20. Upon information and belief, as alleged in Plaintiffs' Complaint, because of the alleged
12 motor vehicle incident on October 11, 2018, Plaintiff Gianluca Caione sustained serious injuries to his
13 neck, back, bodily limbs, organs and systems.

14 21. Upon information and belief, as stated in Plaintiffs' Complaint, Plaintiff Gianluca
15 Caione brings forth the claim of (1) Negligence, Negligence Per Se and Respondeat Superior against
16 Defendants, and Plaintiff Ioana Caione brings forth the claim of (2) Loss of Consortium against
17 Defendants.

18 22. Upon information and belief, as stated in Plaintiffs' Complaint, Defendants believe
19 Plaintiffs will present at the time of trial to a jury, that as a direct and proximate result of the alleged
20 negligence of Defendant Coyne, Plaintiff Gianluca Caione suffered serious, debilitating injuries,
21 including but not limited to injuries to Plaintiff Gianluca Caione's neck and back, causing general
22 damage in an amount which exceeds \$15,000.

23 23. Upon information and belief, as stated in Plaintiffs' Complaint, Defendants believe
24 Plaintiffs will present at the time of trial to a jury, that the alleged negligence of Defendant Coyne has
25 caused Plaintiff Gianluca Caione to incur future medical expenses, that he has suffered lost wages and
26 will continue to suffer wage loss, he has suffered and continues to suffer pain, loss of enjoyment of
27 life, causing general damage in an amount which exceeds \$15,000, and that Plaintiffs have been
28 forced to retain the services of an attorney to prosecute this action and are entitled to reasonable

1 attorney's fees and costs.

2 24. Upon information and belief, as stated in Plaintiffs' Complaint, Defendants believe
3 Plaintiffs will present at the time of trial to a jury, that the alleged negligence of Defendant Coyne has
4 caused Plaintiff Ioana Caione to suffer injuries, including but not limited to, loss of companionship,
5 emotional support, emotional distress, humiliation and embarrassment and acts of love and affection,
6 causing general damage in an amount which exceeds \$15,000, and that Plaintiffs have been forced to
7 retain the services of an attorney to prosecute this action and are entitled to reasonable attorney's fees
8 and costs.

9 24. Moreover, on April 5, 2019, Plaintiffs served a Demand, which indicated that the
10 medical specials alone amounted to \$90,601.69, satisfying in excess the seventy-five thousand dollar
11 (\$75,000) jurisdictional threshold. A true and correct copy of Plaintiff's April 15, 2019 Demand is
12 attached hereto, as **Exhibit "B."**

13 25. Defendants will file a Notice for Petition of Removal with the Nevada State District
14 Court and provide the new Federal Court Case number.

15 WHEREFORE, DEFENDANTS respectfully remove this action from the Eighth Judicial
16 District Court of Clark County, Nevada, in case number A-18-780801-C to this Court pursuant to 28
17 U.S.C. § 1441.

WOOD, SMITH, HENNING & BERMAN LLP
Attorneys at Law
2881 BUSINESS PARK COURT, SUITE 200
LAS VEGAS, NEVADA 89128-9020
TELEPHONE 702 251 4100 • FAX 702 251 5405

July 11, 2019

WOOD, SMITH, HENNING & BERMAN LLP
Attorneys at Law

By


JOEL D. ODOU

Nevada Bar No. 7468

BROOKE A. BOHLKE

Nevada Bar No. 9374

BETTY J FOLEY

Nevada Bar No. 14517

2881 Business Park Court, Suite 200

Las Vegas, Nevada 89128-9020

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Attorneys for Defendants

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Attorneys at Law
2881 BUSINESS PARK COURT, SUITE 200
LAS VEGAS, NEVADA 89128-9020
TELEPHONE 702 251 4100 ♦ FAX 702 251 5405

CERTIFICATE OF SERVICE

I hereby certify that on this 11th day of July, 2019, I caused a true and correct copy of **DEFENDANTS' PETITION FOR REMOVAL** to be placed in the United States Mail, with first class postage prepaid, addressed as follows:

Michael C. Kane, Esq.
Bradley J. Myers, Esq.
Richard A. Englemann, Esq.
THE702FIRM
400 South 7th Street, #400
Las Vegas, NV 89101
Tel.: 702-776-3333/Fax: 702-505-9787
mike@the702firm.com
brad@the702firm.com
Attorneys for Plaintiffs
Gianluca Caione and Ioana Caione


Herbert L. Michel, Jr., Esq.
YOUR LEGAL POWER
One Summerlin Building
1980 Festival Plaza Drive, Suite 300
Las Vegas, NV 89135
Tel.: 702-341-5600/Fax: 702-983-6623
herbmichel@aol.com
Attorney for Plaintiffs
Gianluca Caione and Ioana Caione

By



Michelle Mercier, an Employee of
WOOD, SMITH, HENNING & BERMAN LLP

EXHIBIT A

Electronically Filed
6/10/2019 4:46 PMElectronically Filed
6/27/2019 3:06 PM
Steven D. Grierson
CLERK OF THE COURT**SUMM**

MICHAEL C. KANE, ESQ.

Nevada Bar No. 10096

BRADLEY J. MYERS, ESQ.

Nevada Bar No. 8857

RICHARD A. ENGLEMAN

Nevada Bar No. 6965

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-AND-

HERBERT L. MICHEL, JR., ESQ.

Nevada Bar No. 5722

HERBERT L. MICHEL, JR., CHARTERED**dba YOUR LEGAL POWER**

1980 Festival Plaza Drive, Suite 300

Las Vegas, Nevada 89135

Telephone: (702) 341-5600

Facsimile: (702) 983-8623

Email: herbmichel@aol.com*Attorneys for Plaintiffs***DISTRICT COURT
CLARK COUNTY, NEVADA**

GIANLUCA CAIONE and IOANA CAIONE,

Plaintiffs,

vs.

Case No. : A-19-796407-C

Dept. No.: XXXI

SUMMONSMICHAEL J. COYNE, JR., individually; INGRAM
MICRO SERVICES INC., a Foreign Corporation;
INGRAM MICRO INC., a Foreign Corporation;
RUTLEDGE COMPANY INC dba THE PHOENIX
GROUP, a Foreign Corporation; DOES I through X,
inclusive; and ROE CORPORATIONS I through X,
inclusive,

Defendants.

**NOTICE! YOU HAVE BEEN SUED. THE COURT MAY DECIDE AGAINST YOU
WITHOUT YOUR BEING HEARD UNLESS YOU RESPOND WITHIN 21 DAYS. READ
THE INFORMATION BELOW.**

TO THE DEFENDANT(S): A civil Complaint has been filed by the Plaintiff(s) against you for the relief set forth in the Complaint.

INGRAM MICRO SERVICES, INC.

1. If you intend to defend this lawsuit, within 21 days after this Summons is served on you exclusive of the day of service, you must do the following:

(a) File with the Clerk of this Court, whose address is shown below, a formal written response to the Complaint in accordance with the rules of the Court, with the appropriate filing fee.

(b) Serve a copy of your response upon the attorney whose name and address is shown below.

2. Unless you respond, your default will be entered upon application of the Plaintiff(s) and failure to so respond will result in a judgment of default against you for the relief demanded in the Complaint, which could result in the taking of money or property or other relief requested in the Complaint.

3. If you intend to seek the advice of an attorney in this matter, you should do so promptly so that your response may be filed on time.

4. The State of Nevada, its political subdivisions, agencies, officers, employees, board members, commission members and legislators each have 45 days after service of this Summons within which to file an Answer or other responsive pleading to the Complaint.

Submitted by:
THE702FIRM

[Signature]
MICHAEL C. KANE, ESQ.
Nevada Bar No. 10096
BRADLEY J. MYERS, ESQ.
Nevada Bar No. 8857
RICHARD A. ENGLEMAN, ESQ.
Nevada Bar No. 6965
400 S. 7th Street, Suite 400
Las Vegas, Nevada 89101
-AND-
HERBERT L. MICHEL, JR., ESQ.
Nevada Bar No. 5722
HERBERT L. MICHEL, JR., CHARTERED
dba YOUR LEGAL POWER
1980 Festival Plaza Drive, Suite 300
Las Vegas, Nevada 89135
Attorneys for Plaintiffs

STEVEN D. GRIERSON
LYNN MARIE GOY Clerk of Court
6/11/2019
[Signature]
By **DEPUTY CLERK** Date
Regional Justice Center
200 Lewis Avenue Vivian Canela
Las Vegas, NV 89155

AOS

DISTRICT COURT
CLARK COUNTY, NEVADA

GIANLUCA CAIONE and IOANA CAIONE,

CASE NO.: A-19-796407-C
DEPT. NO.: XXXI

Plaintiffs,

vs.

MICHAEL J. COYNE, JR., individually; INGRAM
MICRO SERVICES INC., a Foreign Corporation;
INGRAM MICRO INC., a Foreign Corporation;
RUTLEDGE COMPANY INC dba THE PHOENIX
GROUP, a Foreign Corporation; DOES I through X,
inclusive; and ROE CORPORATIONS I through X,
inclusive,

Defendants,

AFFIDAVIT OF SERVICE

I Jon Salisbury, being duly sworn says: That at all times herein affiant was and is a citizen of the United States, over 18 years of age, not a party to or interested in the proceeding in which this affidavit is made. That affiant received 1 copy(ies) of the Summons and Complaint on the 11 day of June, 2019 and served the same on the 12 day of June, 2019 at 9:12 a.m. by:

(Affiant must complete the appropriate paragraph)

1. Delivering and leaving a copy with the defendant _____ at _____.
2. Serve the defendant _____ by personally delivering and leaving a copy with _____, as person of suitable age and discretion residing at the defendant's usual place of abode located at _____.

(Use paragraph 3 for serve upon agent, completing A or B)

3. Serving the defendant INGRAM MICRO SERVICES INC., a Foreign Corporation by personally delivering and leaving a copy at 112 N. Curry St., Carson City, NV 89703

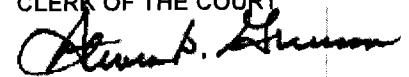
a. With CSC Services of Nevada, Inc. as Registered Agent, an agent lawfully designated by statute to accept service of process;

b. With Kris, pursuant to NRS 14.020 as a person of suitable age and discretion at the above address, which address is the address of the resident agent as shown on the current certificate of designation filed with the Secretary of State.

"I declare under penalty of perjury that the foregoing is true and correct."

Jon Salisbury - License #2100C
A.C.E.S. Process Service
3829 Culpepper Dr.
Sparks, NV 89436
(775) 530-9162

6/20/19
Date

Electronically Issued
6/10/2019 4:46 PMElectronically Filed
6/27/2019 3:06 PM
Steven D. Grierson
CLERK OF THE COURT**SUMM**

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Email: herbmichel@aol.com*Attorneys for Plaintiffs***DISTRICT COURT
CLARK COUNTY, NEVADA**

GIANLUCA CAIONE and IOANA CAIONE,

Plaintiffs,

vs.

Case No. : A-19-796407-C

Dept. No.: XXXI

SUMMONSMICHAEL J. COYNE, JR., individually; INGRAM
MICRO SERVICES INC., a Foreign Corporation;
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inclusive; and ROE CORPORATIONS I through X,
inclusive,

Defendants.

**NOTICE! YOU HAVE BEEN SUED. THE COURT MAY DECIDE AGAINST YOU
WITHOUT YOUR BEING HEARD UNLESS YOU RESPOND WITHIN 21 DAYS. READ
THE INFORMATION BELOW.**IE702FIRM
ORNEYS AT LAW
S. 7th St. #400
AS, NEVADA 89101
:(702) 776-3333

1 **TO THE DEFENDANT(S):** A civil Complaint has been filed by the Plaintiff(s) against you for
 2 the relief set forth in the Complaint.

3 **INGRAM MICRO, INC.**

4 1. If you intend to defend this lawsuit, within 21 days after this Summons is served on you
 5 exclusive of the day of service, you must do the following:

6 (a) File with the Clerk of this Court, whose address is shown below, a formal written
 7 response to the Complaint in accordance with the rules of the Court, with the appropriate
 8 filing fee.

9 (b) Serve a copy of your response upon the attorney whose name and address is shown
 below.

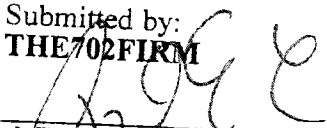
10 2. Unless you respond, your default will be entered upon application of the Plaintiff(s) and
 11 failure to so respond will result in a judgment of default against you for the relief demanded in the
 12 Complaint, which could result in the taking of money or property or other relief requested in the
 13 Complaint.

14 3. If you intend to seek the advice of an attorney in this matter, you should do so promptly so
 15 that your response may be filed on time.

16 4. The State of Nevada, its political subdivisions, agencies, officers, employees, board
 17 members, commission members and legislators each have 45 days after service of this Summons
 18 within which to file an Answer or other responsive pleading to the Complaint.

19 Submitted by:

20 **THE702FIRM**

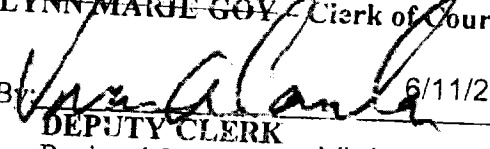
21 
 22 MICHAEL C. KANE, ESQ.
 Nevada Bar No. 10096
 23 BRADLEY J. MYERS, ESQ.
 Nevada Bar No. 8857
 24 RICHARD A. ENGLEMAN, ESQ.
 Nevada Bar No. 6965
 400 S. 7th Street, Suite 400
 Las Vegas, Nevada 89101

25 -AND-

26 HERBERT L. MICHEL, JR., ESQ.
 Nevada Bar No. 5722
 27 **HERBERT L. MICHEL, JR., CHARTERED**
dba YOUR LEGAL POWER
 1980 Festival Plaza Drive, Suite 300
 Las Vegas, Nevada 89135
 28 *Attorneys for Plaintiffs*

STEVEN D. GRIERSON

~~LYNN MARIE GOY~~ Clerk of Court

By:  6/11/2019
DEPUTY CLERK Date
 Regional Justice Center
 200 Lewis Avenue
 Las Vegas, NV 89155

Affidavit of Process Server

DISTRICT COURT CLARK COUNTY, NEVADA

GIANLUCA CAIONE & IOANA CAIONE VS MICHAEL J. COYNE, JR. et al A-19-796407-C

PLAINTIFF/PETITIONER DEFENDANT/RESPONDENT CASE NUMBER

I, KEVIN S. DUNN being first duly sworn, depose and say: that I am over the age of 18 years and not a party to this action, and that within the boundaries of the state where service was effected, I was authorized by law to perform said service. RECEIVED 6/13/19

Service: I served INGRAM MICRO INC,
NAME OF PERSON / ENTITY BEING SERVED

with (list documents) SUMMONS, COMPLAINT AND MD FOR JURY TRIAL

by leaving with LYNANNE GARES (authorized person at the registered agent) At
NAME RELATIONSHIP

☐ Residence ADDRESS CITY / STATE
☒ Business C/O CORPORATION SERVICE CO. 251 LITTLE FALLS DRIVE WILMINGTON, DE 19808
ADDRESS CITY / STATE

On 6/13/19 AT 12:30 PM
DATE TIME

Thereafter copies of the documents were mailed by prepaid, first class mail on _____
DATE

from _____
CITY STATE ZIP

Manner of Service:

☒ CORPORATE

☐ Personal: By personally delivering copies to the person being served.

☐ Substituted at Residence: By leaving copies at the dwelling house or usual place of abode of the person being served with a member of the household over the age of 18 and explaining the general nature of the papers.

☐ Substituted at Business: By leaving, during office hours, copies at the office of the person/entity being served with the person apparently in charge thereof.

☐ Posting: By posting copies in a conspicuous manner to the front door of the person/entity being served.

☐ Non-Service: After due search, careful inquiry and diligent attempts at the address (es) listed above, I have been unable to effect process upon the person/entity being served because of the following reason(s):

☐ Unknown at Address ☐ Moved, Left no Forwarding ☐ Service Cancelled by Litigant ☐ Unable to Serve in Timely Fashion
☐ Address Does Not Exist ☐ Other

Service Attempts: Service was attempted on: (1) _____ (2) _____
DATE TIME DATE TIME
(3) _____ (4) _____ (5) _____
DATE TIME DATE TIME DATE TIME

AGE 45 Sex F Race W Height 5'5 Weight 180 HAIR BROWN

SIGNATURE OF PROCESS SERVER
KEVIN S. DUNN

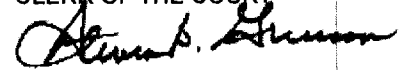
SUBSCRIBED AND SWORN in the State of Delaware, New Castle County before me this 13TH day of June, 2019

DENORRIS ANGELO BRITT
NOTARY PUBLIC
STATE OF DELAWARE
My Commission Expires May 1, 2022

SIGNATURE OF NOTARY PUBLIC

NOTARY PUBLIC for the state of DELAWARE

Electronically Filed
6/10/2019 4:45 PM
Steven D. Grierson
CLERK OF THE COURT



CASE NO: A-19-796407-C
Department 31

1 **COMJD**

2 MICHAEL C. KANE, ESQ.

3 Nevada Bar No. 10096

4 BRADLEY J. MYERS, ESQ.

5 Nevada Bar No. 8857

6 RICHARD A. ENGLEMAN

7 Nevada Bar No. 6965

8 **THE702FIRM**

9 400 South 7th Street, #400

10 Las Vegas, Nevada 89101

11 Telephone: (702) 776-3333

12 Facsimile: (702) 505-9787

13 E-Mail: mike@the702firm.com

brad@the702firm.com

14 -AND-

15 HERBERT L. MICHEL, JR., ESQ.

16 Nevada Bar No. 5722

17 **HERBERT L. MICHEL, JR., CHARTERED**

18 **dba YOUR LEGAL POWER**

19 1980 Festival Plaza Drive, Suite 300

20 Las Vegas, Nevada 89135

21 Telephone: (702) 341-5600

22 Facsimile: (702) 983-8623

23 Email: herbmichel@aol.com

24 *Attorneys for Plaintiffs*

25 **DISTRICT COURT**

26 **CLARK COUNTY, NEVADA**

27 GIANLUCA CAIONE and IOANA CAIONE,

Case No. :

Dept. No.:

28 Plaintiffs,

vs.

29 MICHAEL J. COYNE, JR., individually; INGRAM
30 MICRO SERVICES INC., a Foreign Corporation;
31 INGRAM MICRO INC., a Foreign Corporation;
32 RUTLEDGE COMPANY INC dba THE PHOENIX
33 GROUP, a Foreign Corporation; DOES I through X,
34 inclusive; and ROE CORPORATIONS I through X,
35 inclusive,

36 Defendants.

37 **COMPLAINT AND**
38 **DEMAND FOR JURY TRIAL**

39 Plaintiffs, GIANLUCA CAIONE and IOANA CAIONE, by and through their attorneys of

1 record, MICHAEL C. KANE, ESQ., BRADLEY J. MYERS, ESQ., and RICHARD A.
2 ENGLEMAN, ESQ., of THE702FIRM, and HERBERT L. MICHEL, JR., ESQ. of YOUR
3 LEGAL POWER, for their Complaint against the Defendants, state, assert and allege as follows:
4

5 **JURISDICTION**

6 1. The Eighth Judicial District Court has jurisdiction of this civil tort action pursuant to
7 NRCP 8(a)(4), NRS 13.040 and NRS 41.130 as the occurrence giving rise to this matter took place
8 in Clark County, Nevada and the amount in controversy exceeds \$15,000.

9 **GENERAL ALLEGATIONS**

10 2. Plaintiff, GIANLUCA CAIONE (Plaintiff or "Gianluca"), is a resident of Clark
11 County, Nevada.

12 3. Plaintiff, IOANA CAIONE (Collectively with Gianluca "Plaintiffs" or "Ioana"), is
13 a resident of Clark County, Nevada and the wife of Plaintiff Gianluca.

14 4. Based upon information and belief, Defendant MICHAEL J. COYNE, JR.
15 ("Defendant" or "Coyne"), is and was, at all times relevant to these proceedings, a resident of
16 O'Fallon, State of Missouri.

17 5. Based upon information and belief, Defendant INGRAM MICRO, INC., is or was
18 a Foreign Corporation and is or was, at all times relevant to these proceedings, authorized to and
19 conducting business in Clark County, The State of Nevada.

20 6. Based upon information and belief, Defendant INGRAM MICRO SERVICES,
21 LLC., is a subsidiary, dba, and/or owned by Defendant INGRAM MICRO, INC., a Foreign
22 Corporation and is or was, at all times relevant to these proceedings, authorized to and conducting
23 business in Clark County, The State of Nevada.

24 7. Based upon information and belief, Defendant INGRAM MICRO SERVICES,
25 LLC., is domesticated in the State of Nevada, which owns and operates a facility in Las Vegas,
26

1 Nevada.

2 8. Based upon information and belief, Defendant RUTLEDGE COMPANY, INC., is
3 a subsidiary, dba, and/or owned by Defendant INGRAM MICRO, INC., and/or Defendant
4 INGRAM MICRO, INC and is or was, at all times relevant to these proceedings, authorized to and
5 conducting business in Clark County, The State of Nevada.
6

7 9. Based upon information and belief, THE PHOENIX GROUP, is a fictitious name
8 owned by Richard Scott Rutledge, its founder and CEO, which based upon information and belief,
9 is the RUTLEDGE COMPANY, INC.
10

11 10. In the alternative, based upon information and belief, Defendant THE PHOENIX
12 GROUP, is a wholly owned subsidiary of INGRAM MICRO INC., and/or INGRAM MICRO
13 SERVICES, LLC., and is or was, at all times relevant to these proceedings, a Foreign Company,
14 authorized to and conducting business in Clark County, State of Nevada.

15 11. The true names and capacities of Defendants named herein as DOES I through X,
16 and ROE BUSINESS ENTITIES I through X, whether individual, corporate, associate, or
17 otherwise, are presently unknown to Plaintiffs, who, therefore, sue said defendants so designated
18 herein are responsible in some manner for the events and occurrences referred to herein alleged,
19 and Plaintiffs will request leave of Court to amend this Complaint to insert the true names and
20 capacities of ROE CORPORATIONS I through X and DOES I through X, when the same have
21 been ascertained and to join such defendants in this action.
22

23 12. On or about October 11, 2018, Plaintiff Gianluca was traveling southbound on Lake
24 Las Vegas Drive, approaching the intersection with Strada Di Villaggio, in Henderson, Nevada.
25

26 13. Plaintiff Gianluca proceeded to make a left turn to head eastbound on Strada Di
27 Villaggio.
28

14. At the same time, Defendant Coyne was headed northbound on Lake Las Vegas

1 Drive.

2 15. Defendant Coyne had a posted stop sign controlling his direction of travel.

3 16. Defendant Coyne failed to stop for the posted stop sign and slammed into Plaintiff
4 Gianluca's car.

5 17. Based upon information and belief, at the time of the car crash, Defendant Coyne
6 was the vice president and repair production manager of Defendant The Phoenix Group, which is
7 associated with and/or owned by either or all of the Defendants Ingram Micro Services, LLC.,
8 Ingram Micro Inc., and/or The Rutledge Company.

9 18. At the time of the car crash, Defendant Coyne was operating a 2018 Red Hyundai
10 Elantra.

11 19. Based upon information and belief, the 2018 Red Hyundai Elantra was owned by
12 Non-Party Enterprise Rental Car Company.

13 20. Based upon information and belief, one or all of Defendants Ingram Micro
14 Services, LLC., Ingram Micro Inc., and/or Rutledge Company dba The Phoenix Company rented
15 the 2018 Hyundai for Defendant Coyne to use within the scope and course of his employment.

16 21. Based upon information and belief, in the alternative, Defendant Coyne rented the
17 2018 Hyundai to use within the scope and course of his employment with Defendants Ingram
18 Micro Services, LLC., Ingram Micro Inc., and/or Rutledge Company dba The Phoenix Company.

19 22. At the time of the car crash, Defendant Coyne was acting within the course and
20 scope of his employment with Defendants Ingram Micro Services, LLC., Ingram Micro Inc.,
21 and/or Rutledge Company dba The Phoenix Company.

22 23. At the time of the car crash, Plaintiff Gianluca and Plaintiff Ioana were and still are
23 husband and wife.

24 ///

FIRST CLAIM FOR RELIEF
(Negligence, Negligence Per Se and Respondeat Superior)

24. Plaintiffs repeat and reallege the allegations above, as though fully set forth herein.

25. On or about October 11, 2018, Defendant Coyne had a duty to operate his car in a careful and prudent manner.

26. At all times relevant, Defendant Coyne owed a duty to Plaintiff Gianluca, including a duty of due care, but breached that duty when the Defendant Coyne operated the 2018 Hyundai Elantra in a negligent, reckless and careless manner so as to cause injury to Plaintiff Gianluca.

27. Defendant Coyne violated Nevada laws, statutes and ordinances (Rules of the Road) that govern the use of streets, roadways and highways.

28. Defendant Coyne violated, but not limited to, NRS 484B.250, vehicle approaching or entering intersection.

29. Defendant violated, but not limited to, NRS 484B.257, vehicle entering intersection marked stop or yield.

30. Plaintiff Gianluca belonged to the class of persons that Nevada laws, statutes and ordinances (Rules of the Road) are and were designed to protect.

31. Defendant Coyne's violation of Nevada laws, statutes and ordinances (Rules of the Road) constitute negligence per se.

32. At the time of the subject car crash, Defendant Coyne was the operator of a 2018 Hyundai Elantra on behalf of Defendants Ingram Micro Services, LLC., Ingram Micro Inc., and/or Rutledge Company dba The Phoenix Company.

33. At the time of the subject car crash, Defendant Coyne is or was an employee of Defendants Ingram Micro Services, LLC., Ingram Micro Inc., and/or Rutledge Company dba The Phoenix Company.

1 34. At the time of the subject car crash, Defendant Coyne was acting within the course
2 and scope of his employment with Defendants Ingram Micro Services, LLC., Ingram Micro Inc.,
3 and/or Rutledge Company dba The Phoenix Company.

4 35. That Defendants Ingram Micro Services, LLC., Ingram Micro Inc., and/or Rutledge
5 Company dba The Phoenix Company and/or Defendant ROES, and each of them are vicariously
6 liable, Respondeat Superior, for the damages caused by their employee's actions and negligence.
7

8 36. As a direct and proximate result of the aforementioned, Plaintiff Gianluca sustained
9 injuries to his neck, back, bodily limbs, organs, and systems all or some of which conditions may
10 be permanent and disabling in nature, all to his general damage in a sum in excess of \$15,000.
11

12 37. As a direct and proximate result of the aforementioned, Plaintiff Gianluca was
13 required to and did receive medical and other treatment for his injuries received in an expense all
14 to his damage in a sum in excess of \$15,000. Said services, care, and treatment are continuing and
15 shall continue in the future, at a presently unascertainable amount.

16 38. Prior to the injuries complained of herein, Plaintiff Gianluca was able-bodied,
17 readily and physically capable of engaging in all other activities for which he was otherwise suited.
18

19 39. Due to his injuries as set forth herein, Plaintiff Gianluca has sustained past wage loss
20 and will continue to suffer wage loss in the future, in an amount to be determined at the time of trial.

21 40. Due to his injuries as set forth herein, Plaintiff Gianluca has sustained pain,
22 suffering, loss of enjoyment of life, past, present and future in an amount in excess of \$15,000.

23 41. Plaintiff Gianluca has been compelled to retain the services of an attorney to
24 prosecute this action and is, therefore, entitled to reasonable attorney's fees and costs incurred
25 herein.
26

27 ///

28 ///

SECOND CLAIM FOR RELIEF
(Loss of Consortium)

42. Plaintiffs repeat and reallege the allegations above, as though fully set forth herein.

43. At all times mentioned herein, Plaintiffs Gianluca and Ioana and were and still are husband and wife.

44. That as a direct and proximate result of Defendant's negligent actions, Plaintiff Gianluca can no longer perform and/or has difficulty performing activities of daily living, including but not limited to, taking care of family members, household duties and chores, is irritable, no longer engages in certain recreational activities with Plaintiff Ioana and no longer engages in social activities with Plaintiff Ioana and cannot or has difficulty performing intercourse and/or withdraws from affection.

45. That as a direct and proximate result of Defendant's negligent actions, Plaintiff Ioana has suffered injuries and damages in the form of, but not limited to, loss of companionship, emotional support and suffers emotional distress, humiliation and embarrassment and acts of love and affection and, as a result thereof, has suffered general damages in an amount in excess of \$15,0000.

46. As a direct and proximate result of Defendant's negligent disregard for Plaintiffs Gianluca and Ioana's rights, Plaintiffs Gianluca and Ioana are entitled to reasonable attorney's fees and costs.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for judgment on all claims for relief as follows:

1. General damages for Plaintiff's pain, suffering, disfigurement, emotional distress, shock, loss of enjoyment of life, and agony in an amount in excess of \$15,000.
2. Special damages for Plaintiffs' medical expenses, future medical expenses, lost

wages, future loss of earning capacity and other economic damages in an amount
excess of \$15,000.

3. General, special and compensatory damages for Plaintiff Ioana Caione's Loss of Consortium.
4. For compensatory damages in an amount in excess of \$15,000.
5. Costs of suit incurred including reasonable attorneys' fees.
6. For such other relief as the Court deems just and proper.

DATED this 10 day of June 2019.

THE702FIRM

MICHAEL C. KANE, ESQ.

Nevada Bar No. 10096

BRADLEY J. MYERS, ESQ.

Nevada Bar No. 8857

RICHARD A. ENGLEMAN

Nevada Bar No. 6965

400 South 7th Street, #400

Las Vegas, Nevada 89101

-AND-

HERBERT L. MICHEL, JR., ESQ.

Nevada Bar No. 5722

**HERBERT L. MICHEL, JR., CHARTERED
dba YOUR LEGAL POWER**

1980 Festival Plaza Drive, Suite 300

Las Vegas, Nevada 89135

Attorneys for Plaintiffs

DEMAND FOR JURY TRIAL

Plaintiffs, by and through their attorneys of record, THE702FIRM and HERBERT L. MICHEL, JR., CHARTERED dba YOUR LEGAL POWER, hereby demands a jury trial of all of the issues in the above matter.

DATED this 10 day of June, 2019.

THE702FIRM


MICHAEL C. KANE, ESQ.

Nevada Bar No. 10096

BRADLEY J. MYERS, ESQ.

Nevada Bar No. 8857

RICHARD A. ENGLEMAN

Nevada Bar No. 6965

400 South 7th Street, #400

Las Vegas, Nevada 89101

-AND-

HERBERT L. MICHEL, JR., ESQ.

Nevada Bar No. 5722

**HERBERT L. MICHEL, JR., CHARTERED
dba YOUR LEGAL POWER**

1980 Festival Plaza Drive, Suite 300

Las Vegas, Nevada 89135

Attorneys for Plaintiffs

EXHIBIT B

HERBERT L. MICHEL, JR.
 LICENSED CALIFORNIA ATTORNEY
 LICENSED COLORADO ATTORNEY
 LICENSED NEVADA ATTORNEY
 LICENSED TEXAS ATTORNEY

OF COUNSEL

PATRICIA ANN MEYER
 LICENSED ILLINOIS ATTORNEY
 LICENSED NEVADA ATTORNEY

Your Legal Power™
Su Poder Legal™

ONE SUMMERLIN BUILDING
 1980 FESTIVAL PLAZA DRIVE
 SUITE 300
 LAS VEGAS, NV 89135

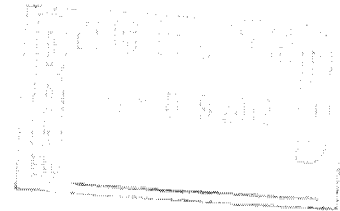
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 FAX 702-983-8623

EMAIL: HERBMICHEL@AOL.COM
 WEB PAGE: WWW.HERBMICHEL.COM

April 5, 2019

TAX I.D. 66-1055959



Rental Insurance Services
 TPA for Ace American Insurance Company
 P.O. Box 350700
 Westminister, CO 80035

Via Email: evgenia.hutchinson@erac.com
And U.S. Mail

Attention: Ms. Eve Hutchinson, Liability Administrator

Re: My Client: Gianluca Caione and Ioana Caione
 Your Insured: Michael Coyne and Ingram Micro, a wholly owned subsidiary of HNA Technology, a corporation
 Date of Accident: October 11, 2018
 Claim No.: 13467577

Dear Ms. Hutchinson:

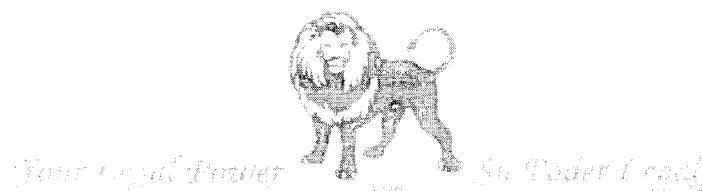
Enclosed herewith please find all medical records, reports and billings to date for the medical care and treatment our client received as a result of the above-referenced accident as well as witness statements (if any) concerning the facts of the subject accident. To summarize same, please be advised as follows:

PAST MEDICAL FOR GIANLUCA CAIONE:

1. Bellavue Medical	\$ 6,715.00
2. Simon Med Imaging	\$ 4,628.48
3 *Nevada Spine Clinic	\$ 58,869.00
4 *Smoke Ranch Surgery Center	\$ 15,480.00
5. Kelly Hawkins Physical Therapy/Key Health	\$ 4,753.00
6. Medication	\$ 19.21
7. Mileage Expense (274 miles @ \$.35/mile)	\$ 137.00

SUBTOTAL: \$ 90,601.69

(*NOTE: Partial Billing/Treatment Ongoing)



April 5, 2019

Rental Insurance Services

TPA for Ace American Insurance Company

Attention: Ms. Eve Hutchinson, Liability Administrator

Re: My Client: Gianluca Caione and Ioana Caione

Your Insured: Michael Coyne and Ingram Micro, a wholly owned subsidiary of HNA Technology, a corporation

Date of Accident: October 11, 2018

Claim No.: 13467577

FUTURE MEDICAL EXPENSES FOR GIANLUCA CAIONE:

8. Future Surgery

A. Surgeon's fees	\$ 38,000.00
B. Assistant surgeon's fees	\$ 19,000.00
C. Anesthesia fees	\$ 2,500.00
D. Hospitalization, surgery center, equipment/implant fees	\$120,000.00
E. Intraoperative neuromonitoring	\$ 12,000.00
F. Postoperative physical therapy and rehabilitation	<u>\$ 6,000.00</u>

SUBTOTAL: \$197,500. 00

TOTAL: \$288,101.69

April 5, 2019

Rental Insurance Services

TPA for Ace American Insurance Company

Attention: Ms. Eve Hutchinson, Liability Administrator

Re: My Client: Gianluca Caione and Ioana Caione

Your Insured: Michael Coyne and Ingram Micro, a wholly owned subsidiary of HNA Technology, a corporation

Date of Accident: October 11, 2018

Claim No.: 13467577

From a review of our files and records herein, it is the considered opinion of this office that a fair and reasonable sum to settle my client's claim for damages against your insured is as follows: [REDACTED]

After you have had the opportunity of pursuing the enclosed materials, I would welcome you the opportunity of discussing this matter with you so as to avoid the necessity of further litigation. **Please respond by Friday, April 26, 2019 Before 5:00 p.m., Pacific Standard Time.**

Very truly yours,

YOUR LEGAL POWER

By 

Herbert L. Michel, Jr.
Attorney at Law

HLM:alr
Enclosures as stated